

REMARKS

Claims 1-29 are pending in the application. The Examiner has rejected Claims 11, 21 and 27 under 35 U.S.C. §112, second paragraph. The Examiner has rejected Claims 1-4, 6-8, 11-13, 17, 18, 25 and 26 under 35 U.S.C. §102(e) as being anticipated by Gilhousen (U.S. Patent 5,751,761). The Examiner has rejected Claims 5, 9, 10, 14-16, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over Gilhousen in view of Kumar et al. (U.S. Patent 6,418,148). The Examiner has rejected Claims 21-24 and 27-29 under 35 U.S.C. §103(a) as being unpatentable over Gilhousen in view of Kumar et al. and Tiedemann, Jr. et al. (U.S. Patent 6,335,922).

Regarding the rejection of Claim 11 under §112, second paragraph, the Examiner states that the element "the primary data user" lacks antecedent basis. Claim 11 has been amended to correct this error. Withdrawal of the rejection of Claim 11 is respectfully requested.

Regarding the rejection of Claims 21 and 27 under §112, second paragraph, the Examiner states that it is unclear whether the applicants are claiming that the same supplemental channel is transmitting the circuit data and the packet data, or if there is a second supplemental channel. As there is only one supplemental channel that transmits both the circuit data and the packet data, it is respectfully requested that the claim be read as written.

Regarding the rejection of independent Claims 1, 7, 12, 17 and 25, the Examiner states that Gilhousen anticipates the claims under §102(e). Applicants respectfully disagree. While Gilhousen discloses a system and method for orthogonal spread spectrum sequence generation in variable data rate systems, Gilhousen does not disclose several elements recited in the claims. First, each of the claims recite, in one form or another, a memory for storing orthogonal code numbers which **cannot** maintain an orthogonality due to an orthogonal code which a circuit data user uses at a maximum data rate. Gilhousen stores "potentially assignable codes", which are not codes that "**cannot** maintain orthogonality". Second, using a first orthogonal code for the circuit data and then using an orthogonal code from the stored codes that cannot maintain orthogonality with the first code for the packet data is also not disclosed in Gilhousen. Gilhousen uses codes that **can** maintain orthogonality. Based on at least the foregoing distinctions, withdrawal of the rejections of Claims 1, 7, 12, 17 and 25 is respectfully requested.

Regarding the rejection of independent Claims 21 and 27, the Examiner states that

Gilhousen in view of Kumar et al. and Tiedemann, Jr. et al. renders the claims unpatentable under §103(a). Again Applicants disagree. First, in arguments analogous to those set forth above, Gilhousen does not use a first orthogonal code for the circuit data and then using an orthogonal code from the stored codes that cannot maintain orthogonality with the first code for the packet data. Second, with respect to Claim 21 and in arguments analogous to those set forth above, Gilhousen does not disclose the recitation of storing orthogonal code numbers which *cannot* maintain an orthogonality due to an orthogonal code which a circuit data user uses at a maximum data rate. Neither Kumar nor Tiedemann cure this defect of Gilhousen. Based on at least the foregoing distinctions, withdrawal of the rejections of Claims 21 and 27 is respectfully requested.

Independent Claims 1, 7, 12, 17, 21, 25 and 27 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-6, 8-11, 13-16, 18-20, 22-24, 26, 28 and 29, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-6, 8-11, 13-16, 18-20, 22-24, 26, 28 and 29 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-29, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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